In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 71-1624

MOSES LEWIS, JR., PETITIONER

v.

STRACHAN SHIPPING COMPANY and LEE H. HOLLIS, DEPUTY COMMISSIONER

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT DEPUTY COMMISSIONER IN OPPOSITION

This case originated in a claim filed by petitioner in 1956 against his employer and its compensation carrier pursuant to the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 *et seq.* In 1970, thirteen years after the last payment of compensation was made in 1957 pursuant to an informal agreement of the parties, the Deputy Commissioner entered a compensation order favorable to

petitioner. Petitioner now seeks review of the determination of the court of appeals that the one-year limitation provision of 33 U.S.C. 922 barred the 1970 order.

In both courts below, the government supported petitioner's contention that the one-year statute of limitations contained in Section 922 did not operate as a bar to entry of the 1970 compensation order. While the Department of Labor adheres to this position, we nevertheless do not believe that in the absence of a conflict between the circuits, review by this Court is warranted. (We note that a case involving the same issues raised here, *Intercounty Construction Corp.* v. *Walter*, Civil Action No. 297-72, is now pending in the District Court for the District of Columbia.)

For the foregoing reason, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

AUGUST 1972.

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